

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION**

KNIFE RIGHTS, INC., et al.,

Plaintiffs,

vs.

MERRICK B. GARLAND, Attorney
General of the United States, et al.

Defendants.

Case No. 4:23-CV-00547-O

U.S. District Judge Reed O'Connor

**PLAINTIFFS' KNIFE RIGHTS, INC., ET AL., NOTICE OF MOTION AND
MOTION FOR SUMMARY JUDGMENT**

NOTICE OF MOTION FOR SUMMARY JUDGMENT

PLEASE TAKE NOTICE that on October 6, 2023, Plaintiffs Knife Rights, Inc., *et al.* (collectively, Plaintiffs) move for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure, the Northern District of Texas Local Civil Rule 56.1-56.7, and this Court's Orders Entering Agreed Briefing Schedule (ECF No. 19), against Defendants Merrick Garland, United States Department of Justice, *et al.* (collectively, "Defendants") on the 42 U.S.C. section 1983/Second Amendment claim in Plaintiffs Complaint. ECF No. 1. There are no genuine issues of material fact as to such claim and Plaintiffs are entitled to judgment as a matter of law.

COUNT

The Complaint's claim for relief arises under 42 U.S.C. section 1983 for the deprivation of, and undue burden on, Plaintiffs' civil rights under the Second Amendment. Specifically, the Complaint's claim for relief (COUNT 1) alleges that the Federal Switchblade Act, 15 U.S.C. §§ 1241-1245, enacted in 1958 as Pub. Law 85-623, violates the Second Amendment of the United States Constitution. The Act, as alleged, prohibits the introduction, manufacture for introduction, transportation, or distribution into interstate commerce any switchblade knife (as defined). 15 U.S.C. §§ 1241(b), 1242. The Act also imposes a fine and possible imprisonment on "[w]hoever ... manufactures, sells, or possesses any switchblade knife." 15 U.S.C. §§ 1243 (Knife Ban). The fine is "not more than \$2,000.00; and imprisonment of "not more than five years, or both." *Id.* The Act defines the term "switchblade knife" to mean "any knife having a blade which opens automatically – (1) by hand pressure applied to a button or other devise in the handle of the knife, or (2) by operation of inertia, gravity, or both." 15 U.S.C. § 1241(b).

Defendants' enforcement of the Federal Switchblade Act provisions identified above unconstitutionally infringes on, and unduly burdens, the fundamental right of

1 Plaintiffs and other similarly situated individuals who reside in Texas and other
2 States within the United States to keep and bear constitutionally protected arms in
3 common use — including automatic opening knives or switchblades (as defined) — in
4 violation of the Second Amendment. U.S. CONST. amend. II.

5 Plaintiffs are among “the people” whom the Second Amendment protects, and
6 they have the presumptive right to bear arms. Automatically opening knives
7 (“switchblades”) are “arms” under the Second Amendment’s plain text. By infringing
8 on Plaintiffs’ right, the challenged provisions of the Federal Switchblade Act
9 contradict the plain text of the Second Amendment. Thus, the burden is on
10 Defendants to identify a well-established historically relevant analogous laws or
11 regulations that justify the Knife Ban. Defendants cannot meet their heavy burden.
12 The above issues are legal questions that can and should be resolved by summary
13 judgment.
14

15 Plaintiffs submit that the matters required under Rule 56.3 are also set forth
16 in Plaintiffs’ Memorandum of Points and Authorities in Support of Plaintiffs’ Motion
17 for Summary Judgment filed concurrently with the present motion in accordance
18 with Local Rules 7.1 and 56.5. In support of this motion, Plaintiffs rely on: (i)
19 Plaintiffs’ Notice of Motion and Motion for Summary Judgment; (ii) Plaintiffs’
20 Memorandum of Points and Authorities in Support of Plaintiffs’ Motion for
21 Summary Judgment; (iii) Appendix of Evidence and Declarations; (iv) Plaintiffs’
22 Complaint (ECF No. 1); and (v) any further evidence or argument advanced at or
23 prior to resolution of this motion.
24

25 Plaintiffs respectfully request that this Court enter judgment in their favor
26 and against Defendants and dismiss the entirety of this case.
27
28

1 October 6, 2023

Respectfully submitted,

2 DILLON LAW GROUP, APC

3
4 /s/ John W. Dillon

John W. Dillon

5 California Bar No. 296788

6 *Pro Hac Vice*

jdillon@dillonlawgp.com

7 **DILLON LAW GROUP APC**

2647 Gateway Road

8 Suite 105, No. 255

9 Carlsbad, California 92009

Phone: (760) 642-7150

10 Fax: (760) 642-7151

11 AND

12 s/ R. Brent Cooper

13 R. Brent Cooper

14 Texas Bar No. 04783250

brent.cooper@cooperscully.com

Benjamin D. Passey

15 Texas Bar No. 24125681)

ben.passey@cooperscully.com

16 **COOPER & SCULLY, P.C.**

900 Jackson Street, Suite 100

17 Dallas, Texas 75202

Phone: (214) 712-9500

18 Fax: (214) 712-9540

19 Attorney for Plaintiffs